

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: March 26, 2019

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KATHLEEN PURVIS,	*	UNPUBLISHED
	*	
Petitioner,	*	No. 17-1343V
	*	
v.	*	Special Master Gowen
	*	
SECRETARY OF HEALTH	*	Decision on Damages; Table Injury;
AND HUMAN SERVICES,	*	Influenza Vaccine; Guillain-Barré
	*	Syndrome (“GBS”).
Respondent.	*	
	*	
* * * * *	*	

Charles E. Floyd, Jr., Floyd & Floyd Attorneys at Law, Phenix City, AL, for petitioner.  
Debra A. Begley, United States Department of Justice, Washington, DC, for respondent

### **DECISION ON DAMAGES<sup>1</sup>**

On September 27, 2017, Kathleen Purvis (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program.<sup>2</sup> Petitioner alleged that she suffered Guillain-Barré syndrome (“GBS”) as a result of receiving an influenza (“flu”) vaccination on October 7, 2014. Petition (ECF No. 1) at Preamble.

On November 9, 2018, respondent filed his report in accordance with Vaccine Rule 4(c), in which respondent provided that petitioner’s claim was appropriate for compensation. Respondent’s Report (“Resp. Rpt.”) (ECF No. 23) at 1. On March 14, 2019, the undersigned issued a ruling that petitioner is entitled to compensation. Ruling on Entitlement (ECF No. 32).

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<sup>1</sup> Pursuant to the E-Government Act of 2002, *see* 44 U.S.C. § 3501 note (2012), because this opinion contains a reasoned explanation for the action in this case, I am required to post it on the website of the United States Court of Federal Claims. The court’s website is at <http://www.uscfc.uscourts.gov/aggregator/sources/7>. **This means the opinion will be available to anyone with access to the Internet.** Before the decision is posted on the court’s website, each party has 14 days to file a motion requesting redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). “An objecting party must provide the court with a proposed redacted version of the decision.” *Id.* **If neither party files a motion for redaction within 14 days, the opinion will be posted on the court’s website without any changes.** *Id.*

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to 34 (2012) (“Vaccine Act” or “the Act”). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

On March 25, 2019, respondent filed a Proffer on an award of compensation, which indicates petitioner's agreement to compensation on the terms set forth therein. Proffer (ECF No. 33). I have reviewed the Proffer and do award damages in accord with it. The Proffer is incorporated herein and made part of hereof as Appendix A. Based on the record as a whole, I find that petitioner is entitled to an award as stated in the Proffer.

**Consistent with the terms of the Proffer, the undersigned awards the following in compensation:**

**(A) A lump sum payment of \$150,565.00 (\$150,000.00 representing compensation for pain and suffering and \$565.00 representing compensation for past out-of-pocket medical expenses) in the form of a check payable to petitioner, Kathleen Purvis.**

This amount accounts for all elements of compensation under 42 U.S.C. §300aa-15(a).

The Clerk of the Court is directed to **ENTER JUDGMENT** in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Thomas L. Gowen**

Thomas L. Gowen  
Special Master

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<sup>3</sup> Entry of judgment is expedited by each party's filing notice renouncing the right to seek review. Vaccine Rule 11(a).

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

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**KATHLEEN PURVIS,**

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Petitioner,

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**No. 17-1343V**

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SPECIAL MASTER

v.

\*

THOMAS GOWEN

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**SECRETARY OF HEALTH AND  
HUMAN SERVICES,**

\*

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\*

Respondent.

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**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On November 9, 2018, respondent filed a Rule 4(c) Report, conceding that petitioner's claim meets the Table criteria for a claim of Guillain-Barré Syndrome following an influenza vaccination. The Court issued a Ruling on Entitlement on March 14, 2019, finding petitioner entitled to compensation under the Vaccine Act.

**I. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded the following, and requests that the Special Master's decision and the Court's judgment award:

1. A lump sum payment of \$150,000.00, which represents compensation for pain and suffering, *see* 42 U.S.C. § 300aa-15(a)(4); and
2. A payment of \$565.00, which represents compensation for past out-of-pocket medical expenses, *see* 42 U.S.C. § 300aa-15(a)(1).

These amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).<sup>1</sup> Petitioner agrees.

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<sup>1</sup> Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future pain and suffering.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respondent recommends that petitioner be awarded a lump sum payment of **\$150,565.00** in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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Assistant Attorney General

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Dated: March 22, 2019